

the Senate, which would correspond to the House of Lords in the English parliamentary system, conduct the trial, we would vary slightly from that and suggest that a special tribunal of ten judges hear the trial and conduct it.

There was some concern that perhaps there would be a conflict if a judge, for instance, was up for indictment, for impeachment, and the special tribunal would be the judging body. The committee considered that objection to a trial of judges by other judges, but we thought that it was probably no more questionable than a trial of a legislator by his fellow legislators. We thought that the judges probably would be specialists in their field and better able to conduct the trial impartially in an ordinary judicial fashion. For that reason, your Committee on Judicial Provision adopted the draft and recommended to the Committee of the Whole that the impeachment process be approved in the constitution as we have it now. We felt that there was a necessity for the constitutional provision.

The United States Constitution parallels the English practices, but I suggest again that we have varied slightly from that and, again, we recommend that GP-10 be adopted by the Committee.

THE CHAIRMAN: Are there any questions of the Committee Chairman?

Delegate Marion.

DELEGATE MARION: Delegate Boyer, is it fair to interpret this recommendation to the extent that it covers the impeachment of judges and their removal from office under this provision as being supplementary to the provisions of JB-1 which provided another specific process for the removal of judges from office?

THE CHAIRMAN: Delegate Boyer.

DELEGATE BOYER: Yes, you are talking about the disability commission. Yes, this would be a supplementary proceeding, Delegate Marion.

THE CHAIRMAN: Are there any further questions?

Delegate Hanson.

DELEGATE HANSON: Delegate Boyer, would you explain how your Committee views a trial for impeachment? I mean what kind of a process is this? Is this a judicial process or is it a legislative action or a political action? Just what is a trial for impeachment as your Committee sees it?

THE CHAIRMAN: Delegate Boyer.

DELEGATE BOYER: Well, we would certainly hope that there would be no politics or political retribution involved here. The House of Delegates would have the sole power of impeachment. That is more or less the grand jury proceeding, the indictment. If by a three-fifths vote of the membership of the House there was found to be justiciable reasons or equitable reasons for the impeachment proceeding then it would be turned over with the true bill of presentment to the ten judges for the trial of the accused.

THE CHAIRMAN: Delegate Hanson.

DELEGATE HANSON: Isn't the history of impeachment and trials of impeachment by legislative bodies one of seeking to remove elected officials from office when there have been no justiciable causes of action against them in some instances and in some instances perhaps there were, but may this not go beyond that?

THE CHAIRMAN: Delegate Boyer.

DELEGATE BOYER: I would concede that you have a good point there. Of course, if a public official has been convicted of some heinous crime that in itself in a court of law would subject him to removal from a court office. The impeachment proceeding would occur when perhaps for some reason public official "A" has not been convicted of a felonious crime, and this would be a supplementary proceeding.

DELEGATE HANSON: Why does your Committee argue that in such case this can be conducted better in a tribunal of judges than before the Senate?

THE CHAIRMAN: You say "in such case". By that you mean what?

DELEGATE HANSON: He said in cases of impeachment and particularly in cases in which either no crime as normally defined has been committed or at least no conviction for an alleged crime can be obtained.

DELEGATE BOYER: We thought that the judges' experience tended to permit them a high degree of insulation from the issues of personality and that their specialized training would probably allow them to conduct such proceedings impartially if it ever became necessary. I think this is highly improbable, but not entirely impossible that the situation might arise.

THE CHAIRMAN: Are there any other questions?